IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17629 of 2004

Between:

G. Saidamma, D/o. Sattaiah,

Age 27 years, Ex-Conductor,
E.No. 175646, Post & Village Rajupeta,

Tipparthi Mandal, Nalgonda District.

..... PETITIONER

AND

1. The Divisional Manager,

A.P.S.R.T.C., Hyderabad.

2 The Depot Manager,

A.P.S.R.T.C.,
Ibrahimpatnam Depot,

Ranga Reddy District.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus call for the records pertaining to the Proc. P2/1(26)/03-IBP Dated 18-04-2004 removing the petitioner from service by the 2nd Respondent and in not disposing of the Appeal dated 04-05-2004 by the 1st Respondent as arbitrary, illegal, unjust, contrary to law, in violtion of principles of natural justice and also in violation of Articles 14 and 21 of the Constitution of India and set-aside the impugned proceedings Proc. P2/1(26)/03-IBP Dated 18-04-2004 of the 2nd

Respondent and consequently direct the 1st Respondent to dispose of the Appeal of the Petitioner dated 04-05-2004.

Counsel for the Petitioner:MR.P.SRIDHAR RAO

Counsel for the Respondents: MR.V.T.M.PRASAD

SC for APSRTC

The Court at the stage of admission made the following

ORDER:

The petitioner worked as a Conductor in the respondent-A.P. State Road Transport Corporation. She was removed from service through an order dated 18-04-2004 on the ground of unauthorized absence. The petitioner being aggrieved by an order of the second respondent preferred an appeal to the first respondent on 04-05-2004 and the appeal is pending.

The learned counsel for the petitioner submits that the punishment imposed by the second respondent is disproportionate to the gravity of the misconduct and the facts and circumstances were not taken into consideration while imposing the punishment. Therefore, the order of the second respondent dated 18-04-2004 in removing the petitioner from service and the action of the first respondent in not disposing the appeal dated 04-05-2004 is illegal, arbitrary, unjust and contrary to law and in violation of the principles of natural justice and Articles 14 and 21 of the Constitution of India.

The petitioner having opted to prefer an appeal ought to have waited for the result of the appeal before approaching this Court for the remedy mentioned therein. The learned counsel for the petitioner represented that since the appeal was not disposed of by the first respondent for the last 3 ½ months, there was no option for

the petitioner except to approach this Court seeking a direction to the first respondent to dispose of the appeal on merits.

In the light of the facts and circumstances explained by the petitioner, the first respondent is directed to take up the appeal for hearing and pass appropriate orders on merits, as per the relevant Rules and Regulations and also keeping in view the judgment of the Supreme Court in **BHAGWAN LAL ARYA v. COMMR. OF POLICE** regarding proportionality of punishment, within four weeks from the date of receipt of a copy of this Order.

The Writ Petition is accordingly disposed of. No costs.

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Dr.G.Yethirajulu, J

1st October, 2004

Note: Issue CC in two days

B/o.

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To

1. The Divisional Manager,

A.P.S.R.T.C., Hyderabad.

2 The Depot Manager,

A.P.S.R.T.C.,
Ibrahimpatnam Depot,

Ranga Reddy District.

3. Two CD copies.